

BEFORE THE
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement of Revoked License filed by:

ALVIN VICTOR PRASAD,

Petitioner.

OAH No. N2006080661

DECISION

This matter was heard by the California Board of Occupational Therapy on May 24, 2007, at the Oakland Airport Plaza Hotel, Oakland, California. The following Board members were present: Luella Grangaard, President; Christine Wietlisbach; Nancy Michel; Mary Evert; and Bobbi Jean Tanberg. Administrative Law Judge Mary-Margaret Anderson, Office of Administrative Hearings, State of California, presided.

Char Sachson, Deputy Attorney General, represented the Office of the Attorney General.

Joel S. Primes, Attorney at Law, represented Petitioner Alvin Victor Prasad, who was present.

The Board deliberated in closed session and rendered its decision on May 24, 2007.

FACTUAL FINDINGS

BACKGROUND

1. On or about December 28, 2002, the Board received an application for an Occupational Therapist license from Petitioner Alvin Victor Prasad. On January 28, 2003, the Board denied the application. Petitioner appealed and a hearing was convened. Evidence at the hearing included Petitioner's two criminal convictions. On January 22, 1993, Petitioner was convicted of a misdemeanor violation of Penal Code section 314.1, lewd or obscene conduct. By virtue of that conviction, Petitioner was required to register as a sex offender. On November 18, 1999, Petitioner was convicted of a misdemeanor

violation of Penal Code section 290, subdivision (g)(1), failing to register as a sex offender. On April 5, 2004, the Board issued a probationary license to Petitioner on terms and conditions.

2. On March 18, 2005, an Accusation and Petition to Revoke Probation was filed against Petitioner. One basis for the Petition was Petitioner's termination from his employment as an occupational therapist for accessing pornography on a computer at his workplace. Petitioner stipulated that his license be revoked. The stipulation included an admission to accessing pornography on a computer at his workplace as well as five violations of the terms and conditions of probation. The license revocation became effective on August 11, 2005.

3. On January 20, 2007, Petitioner signed the instant Petition for Reinstatement and this hearing followed.

PETITIONER'S EVIDENCE

4. Petitioner presented a great deal of information about how he has addressed, and continues to address, the sexually-related mental health issues that he contends led to his criminal convictions. Petitioner has been in individual therapy and has attended a variety of group meetings and counseling sessions since 1992.

5. Linda L. Skerbec, L.M.F.T., is in private practice in Palo Alto. She saw Petitioner approximately 195 times between 2001 and 2005. Skerbec testified extensively at this hearing. Skerbec believes that Petitioner's problems are rooted in how he was treated by his father. For example, Petitioner's father often rejected him and called him a girl. Petitioner has worked through this issue and concluded that he is heterosexual. Skerbec opined that he is not a danger to others, either personally or professionally.

6. Petitioner readily admitted his criminal convictions and probation violations. He asserts that he poses no threat to others. Petitioner acknowledged an interest in pornography, but strongly asserts that he has no interest in child pornography. Petitioner now sees himself as a heterosexual male and wants to continue to grow in his relationship with his wife. He believes he has structures in place to enable him to control inappropriate impulsive behaviors. These include an accountability partner and ongoing therapy with Bob Parkins, L.M.F.T.

7. Petitioner currently resides with his wife and two daughters in Elk Grove. He is active in a church community. His last employment was as an administrative assistant. Petitioner greatly misses working as an occupational therapist. He describes the time he spent working in that field as the most exciting time in his life. Petitioner's last work in the field was with the elderly, and this is the population he plans to serve if his license is restored.

LEGAL CONCLUSION

Petitioner presented sufficient evidence to warrant a probationary license, if his fitness to practice is first confirmed by an independent mental health professional. The Board is also concerned about Petitioner's current skill level and that he continue in therapy. Those concerns are reflected in the probationary terms.

ORDER

The Petition of Alvin Victor Prasad for reinstatement of his occupational therapist license is granted on a probationary basis provided that Petitioner successfully complies with the conditions precedent set forth below. Upon successful completion of the condition precedent, Petitioner's license shall be reinstated, however, said license shall immediately be revoked, the order of revocation stayed and the license placed on probation for a period of five years pursuant to the following conditions of probation:

CONDITION PRECEDENT

Psychological Evaluation: Within 90 days of the effective date of this Decision, Petitioner shall submit to a psychiatric/psychological evaluation. The evaluation shall be performed by a psychiatrist licensed and board-certified in California or by a clinical psychologist licensed in California. The psychiatrist or psychologist must have expertise in the diagnosis and treatment of sexual issues and impulse control and must be approved prior to the evaluation by the Board or the Board's designee. This evaluation shall be for the purpose of determining Petitioner's current mental, psychological and emotional fitness to safely perform all professional duties. Petitioner shall provide the evaluator with a copy of this Decision prior to the evaluation. Petitioner shall pay all costs of the evaluation.

Petitioner shall cause the evaluator to submit to the Board a written psychological report concerning Petitioner's psychological ability to practice safely, including whether practice restrictions are recommended, as well as such other information as may be requested by the Board.

CONDITIONS OF PROBATION

1. Obey All Laws: Petitioner shall obey all federal, state and local laws and regulations governing the practice of occupational therapy in California. Petitioner shall submit, in writing, a full detailed account of any and all violations of the law to the Board within five days of occurrence.
2. Compliance with Probation and Quarterly Reporting: Petitioner shall fully comply with the terms and conditions of probation established by the Board

and shall cooperate with representatives of the Board in its monitoring and investigation of the Petitioner's compliance with probation. Petitioner, within 10 days of completion of the quarter, shall submit quarterly written reports to the Board on a Quarterly Report of Compliance form obtained from the Board (Attachment A).

3. Personal Appearances: Upon reasonable notice by the Board, Petitioner shall report to and make personal appearances at times and locations as the Board may direct.
4. Notification of Address and Telephone Number Change(s): Petitioner shall notify the Board, in writing, within five days of a change of residence or mailing address, of his new address and any change in work and/or home telephone numbers.
5. Tolling for Out-of-State Practice, Residence or In-State Non-Practice: In the event Petitioner should leave California to reside or to practice outside the State for more than 30 days, Petitioner shall notify the Board or its designee in writing within ten days of the dates of departure and return. All provisions of probation other than the quarterly report requirements, examination requirements, and education requirements, shall be held in abeyance until Petitioner resumes practice in California. All provisions of probation shall recommence on the effective date of resumption of practice in California.
6. Notification to Employer(s): When currently employed or applying for employment in any capacity in any health care profession Petitioner shall notify his employer of the probationary status of Petitioner's license. This notification to the current employer shall occur no later than the effective date of the Decision. Petitioner shall notify any prospective health care employer of his probationary status with the Board prior to accepting such employment. This notification shall be made by providing the employer or prospective employer with a copy of the Board's prior decision, the stipulated settlement and this decision. The Board's designee shall confirm that the requirements of this paragraph have been complied with.

Petitioner shall cause each health care employer to submit quarterly reports to the Board. The reports shall be on a form provided by the Board, shall include a performance evaluation and such other information as may be required by the Board (Attachment B).

Petitioner shall notify the Board, in writing, within five days of any change in employment status. Petitioner shall notify the Board, in writing, within five days if he is terminated from any occupational therapy or health care related

employment with a full explanation of the circumstances surrounding the termination.

7. Employment Requirements and Limitations: During probation, Petitioner shall work in his licensed capacity in the State of California. This practice shall consist of no less than six continuous months and of no less than twenty hours per week.

While on probation, Petitioner shall not work for a registry or in any private duty position, except as approved, in writing, by the Board. Petitioner shall work only at a regularly assigned, identified, and pre-determined work site in a single facility and shall not work in a float capacity except as approved, in writing, by the Board.

8. Supervision Requirements: Petitioner shall obtain prior approval from the Board before commencing any employment, regarding the level of supervision provided to Petitioner while employed as an occupational therapist or occupational therapy assistant. At a minimum, another licensed occupational therapist must be present at all times at the work site where Petitioner is working. Petitioner shall not function as a supervisor of occupational therapists, occupational therapy assistants, occupational therapy aides or occupational therapy students during the period of probation except as approved, in writing, by the Board.
9. Continuing Education Requirements: Petitioner shall complete continuing education directly relevant to the violation as specified by the Board. Continuing education shall be completed within a period of time designated by the Board, which timeframe shall be incorporated as a condition of probation.

Continuing education shall be in addition to the professional development activities required for license renewal. The Board shall notify Petitioner of the course content and number of contact hours required. At a minimum, Petitioner shall complete six hours of instruction in professional ethics. Within 30 days of the Board's written notification of the assigned coursework, Petitioner shall submit a written plan to comply with this requirement. The Board shall approve such plan prior to enrollment in any course of study. Failure to satisfactorily complete the required continuing education as scheduled or failure to complete same no later than 100 days prior to the termination of probation shall constitute a violation of probation. Petitioner is responsible for all costs of such continuing education. Upon successful completion of the course(s), Petitioner shall cause the instructor to furnish proof to the Board within 30 days of course completion.

10. Maintenance of Valid License: Petitioner shall, at all times while on probation, maintain an active current license with the Board including any period during which license is suspended or probation is tolled.
11. Psychotherapy: Petitioner shall participate in ongoing psychotherapy with a California licensed or legally registered mental health professional approved by the Board. Within 60 days of the date Petitioner is granted a probationary license, Petitioner shall submit to the Board the name of one or more proposed therapists for prior approval. Petitioner shall provide the therapist with a copy of the Board's Disciplinary Order no later than the first counseling session. Counseling shall be at least once every other week unless otherwise determined by the Board. Petitioner shall continue in such therapy at the Board's discretion. Cost of such therapy shall be paid by Petitioner.

Petitioner shall cause the therapist to submit to the Board a written report concerning Petitioner's psychotherapy status and progress as well as such other information as may be requested by the Board. The initial psychotherapy report shall be submitted within 90 days from the effective date of the Decision. Petitioner shall cause the therapist to submit quarterly written reports to the Board concerning Petitioner's fitness to practice, progress in treatment and to provide such other information as may be required by the Board.


If the therapist finds that Petitioner is not fit to practice safely, or can only practice with restrictions, the therapist shall notify the Board, in writing, within five working days. The Board shall notify Petitioner in writing of the therapist's determination of unfitness to practice and shall order the Petitioner to cease or restrict licensed activities as a condition of probation. Petitioner shall comply with this condition until the Board is satisfied of Petitioner's fitness to practice safely and has so notified Petitioner. Petitioner shall document compliance with this condition in the manner required by the Board.

12. Restriction on Licensed Practice: Petitioner shall practice only with clients over age 50 in a single facility according to the restrictions set forth in paragraphs 7 and 8. Petitioner shall not access the internet at any worksite. Petitioner shall be required to document compliance with this condition in a manner required by the Board.
13. Violation of Probation: If Petitioner violates probation in any respect, the Board, after giving Petitioner notice and opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If an accusation or a petition to revoke probation is filed against Petitioner during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

14. Completion of Probation: Upon successful completion of probation, Petitioner's license will be fully restored.

DATED: August 16, 2007

EFFECTIVE DATE: September 15, 2007


LUELLA GRANGAARD, PRESIDENT
California Board of Occupational Therapy